

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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JEFFERSON-PILOT LIFE . CIVIL ACTION NO. C-1-02-479
INSURANCE COMPANY, et al., .
Plaintiffs, . Cincinnati, Ohio
- v - . Tuesday, August 17, 2004
CHRISTOPHER L. KEARNEY, . 3:00 p.m. Hearing
Defendant. . Cross-Motions for Summary
Judgment
.....

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE S. ARTHUR SPIEGEL, JUDGE
TRANSCRIPT ORDERED BY: William R. Ellis, Esq.

APPEARANCES:

For the Plaintiffs: WOOD & LAMPING
BY: William R. Ellis, Esq.
and Amy Gasser Callow, Esq.
600 Vine Street
Suite 2500
Cincinnati, Ohio 45202

For the Defendant: GRAYDON, HEAD & RITCHEY
BY: Michael A. Roberts, Esq.
511 Walnut Street
Cincinnati, Ohio 45202

Also Present: Mr. Christopher Kearney

Law Clerk: Keith Syler, Esq.

Courtroom Clerk: Kevin Moser

Court Reporter: Mary Ann Ranz

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1 Disability. Those benefits are available.

2 Sickness for Total Disability, that applies in Residual
3 Disability. And then we come to the first issue of dispute
4 in the case: The definition in the policy of Increase in
5 Benefits. Like all the other definitions I just referenced
6 and those here on the handout, it is described by using the
7 words Total Disability. But just like all the other
8 definitions, it applies in Residual Disability, as I'll show
9 the Court.

10 When a person applies -- purchases and pays a premium for
11 Residual Disability and then they apply for Residual
12 Disability, to make sense of the rider in this policy --
13 because the way the policy was written, it doesn't mention
14 Residual; you have to take the rider and then go back for the
15 policy and apply these definitions as if it's Residual. Just
16 like it's undisputed for Elimination Period, Maximum Benefit
17 and Monthly Benefit, even those described as Total, they
18 apply in Residual and so does Increase in Benefits, as we'll
19 get to in a second.

20 Now, the language of Increase in Benefits says, "After
21 you've received benefits for Total Disability for 12
22 consecutive months." As I'll show you, because of the
23 Residual Disability rider and the claim for residual, when
24 residual is the issue, it should be read, "After you've
25 received benefits for Residual Benefits for 12 months." The